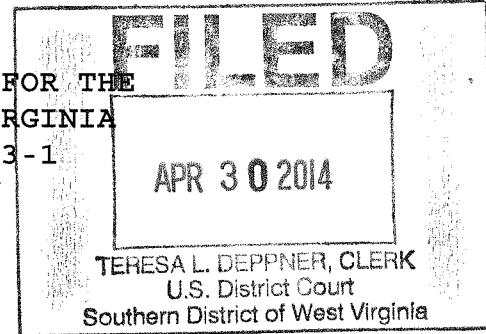


UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON GRAND JURY 2013-1
April 29, 2014 SESSION



UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:14-cr-00089

16 U.S.C. § 3372(a)(2)(A)

16 U.S.C. § 3373(d)(1)(B)

THOMAS PEPIN

also known as "Timmy Stark"

I N D I C T M E N T

The Grand Jury charges:

COUNT ONE
(Unlawful Transport and Sale of Wildlife)

Background

At all relevant times:

1. Defendant THOMAS PEPIN was a resident of Ravenswood, Jackson County, West Virginia.
2. Eastern Box Turtles were a species of reptile native to West Virginia.
3. It was unlawful under the laws of the State of West Virginia to possess any wildlife, including reptiles, that had been illegally taken, killed, or obtained. W. Va. Code § 20-2-4. Furthermore, it was unlawful under the laws of the State of West Virginia for any person to transport, or to possess with the

intent of transporting, beyond the limits of the State, any species of wildlife taken, captured, or caught within the State, except under certain licensed or lawful conditions. W. Va. Code § 20-2-12.

4. It was also unlawful under the laws of the State of West Virginia to take or attempt to take from the wild, or to possess for commercial purposes, or to sell, offer to sell, or to transport out of West Virginia for commercial purposes, any species of wildlife native to West Virginia. W. Va. Code R. §§ 58-63-7.1 and 58-63-8.1.

5. The Lacey Act, 16 U.S.C. §§ 3371-3378, made it unlawful under federal law for a person to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any wildlife that was taken, possessed, transported, or sold in violation of any law or regulation of any State.

Pepin Unlawfully Took, Possessed
and Sold Eastern Box Turtles

6. From in or about July 2012 through in or about September 2013, and in violation of West Virginia law, defendant THOMAS PEPIN sold, offered to sell, transported, and possessed with the intent of transporting, beyond the limits of West Virginia and for commercial purposes, Eastern Box Turtles.

During this period, defendant THOMAS PEPIN engaged in this unlawful conduct as follows:

- a. He hunted and captured Eastern Box Turtles in and around his residence in Ravenswood, Jackson County, West Virginia, with the intent and for the purpose of selling the Turtles;
- b. He offered for sale and did in fact sell, over the internet and communicating by e-mail using the alias "Timmy Stark," the Eastern Box Turtles that he had captured.
- c. He sold the Eastern Box Turtles to numerous customers outside of West Virginia;
- d. He sold approximately 300 Eastern Box Turtles to out-of-state customers;
- e. He did not have a permit or license to engage in commercial transactions of Eastern Box Turtles;
- f. He knew what he was doing was illegal;
- g. He made two sales to a federal law enforcement officer who was operating in an undercover capacity in Pennsylvania. The first sale occurred approximately May 26-29, 2013, during which he sold 12 Eastern Box Turtles for \$18 per turtle.
- h. The second sale to the federal law enforcement officer operating in an undercover capacity occurred

approximately June 17-19, 2013. In this sale, he sold 28 Eastern Box Turtles for the negotiated price of \$400.

i. In the two sales to the undercover federal law enforcement officer, he shipped and transported the Eastern Box Turtles from Ravenswood, West Virginia, to Pennsylvania, by stuffing the turtles in tube socks, thus restricting their movement; placing the turtles in plastic bins with limited air holes; packing the plastic bins in cardboard boxes with no direction labels and no markings to indicate what the boxes contained; and shipping the turtles via ground transportation. In the shipment of 28 turtles in June 2013, 14 of the turtles arrived in Pennsylvania dead.

7. The fair market value of the Eastern Box Turtles from approximately July 2012 through September 2013 was approximately \$100 per turtle.

The Lacey Act Violation

8. From on or about May 26, 2013, through on or about May 29, 2013, in or around Ravenswood, Jackson County, West Virginia, in the Southern District of West Virginia and elsewhere, defendant THOMAS PEPIN knowingly engaged in conduct that involved the sale, the offer of sale, and the intent to sell wildlife, that is, Eastern Box Turtles, with a market value

in excess of \$350, and knowingly transported and sold those Eastern Box Turtles in interstate commerce.

9. At the time, the Eastern Box Turtles had been taken and possessed in violation of a law and regulation of the State of West Virginia, and defendant THOMAS PEPIN knew that the Eastern Box Turtles had been taken and possessed in a manner unlawful under any underlying law.

In violation of Title 16, United States Code, Sections 3372(a)(2)(A) and 3372(d)(1)(B).

COUNT TWO
(Unlawful Transport and Sale of Wildlife)

1. The Grand Jury re-alleges and incorporates by reference paragraphs one through seven of Count One of this Indictment, as if fully set forth herein.

2. From on or about June 17, 2013, through on or about June 19, 2013, in or around Ravenswood, Jackson County, West Virginia, in the Southern District of West Virginia and elsewhere, defendant THOMAS PEPIN knowingly engaged in conduct that involved the sale, the offer of sale, and the intent to sell wildlife, that is, Eastern Box Turtles, with a market value in excess of \$350, and knowingly transported and sold those Eastern Box Turtles in interstate commerce.

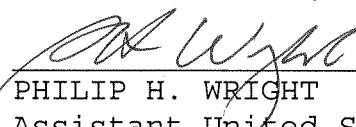
3. At the time, the Eastern Box Turtles had been taken and possessed in violation of a law and regulation of the State of West Virginia, and defendant THOMAS PEPIN knew that the Eastern Box Turtles had been taken and possessed in a manner unlawful under any underlying law.

In violation of Title 16, United States Code, Sections 3372(a)(2)(A) and 3372(d)(1)(B).

UNITED STATES OF AMERICA

R. BOOTH GOODWIN II
United States Attorney

By:


PHILIP H. WRIGHT
Assistant United States Attorney